

1 THE HONORABLE JOHN C. COUGHENOUR

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 In re:

CASE NO. C20-1571-JCC

10 SETH BASIL COLCHESTER,

ORDER

11 Petitioner,

12 v.

13 JEWEL LAZARO,

14 Respondent.
15

16 This matter comes before the Court on Respondent Jewell Lazaro's motion for a finding
17 of contempt (Dkt. No. 101).¹ Having thoroughly considered the briefing and the relevant record,
18 the Court finds oral argument unnecessary and hereby DENIES the motion for the reasons
19 explained herein.

20 On February 26, 2021, the Court granted Seth Basil Colchester's petition for return of
21 S.L.C. pursuant to the 1980 Hague Convention on the Civil Aspects of International Child
22 Abduction. (Dkt. No. 87.) In order to mitigate the risk of harm to S.L.C., the Court ordered Mr.
23 Colchester to "facilitate daily electronic communications between S.L.C. and Ms. Lazaro." (*Id.*)
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25 ¹ In response, Mr. Colchester seeks attorney fees. (*See* Dkt. No. 104 at 1, 10.) But Mr.
26 Colchester fails to provide legal argument or authority supporting the request. (*Id.*) Nor does he
make the request by formal motion. Accordingly, the request is DENIED.

1 at 5.) Ms. Lazaro alleges that Mr. Colchester has not complied with this order and asks the Court
2 to find Mr. Colchester in contempt, demand Mr. Colchester's strict compliance with the Court's
3 order, and direct him to pay Ms. Lazaro's reasonable attorney fees in seeking a finding of
4 contempt. (Dkt. No. 101 at 7.)

5 "Civil contempt . . . consists of a party's disobedience to a specific and definite court
6 order by failure to take all reasonable steps within the party's power to comply." *In re Dual-*
7 *Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695 (9th Cir. 1993). "But a person
8 should not be held in contempt if his action "appears to be based on a good faith and reasonable
9 interpretation of the [court's order]." *Id.* (quoting *Vertex Distrib., Inc. v. Falcon Foam Plastics,*
10 *Inc.*, 689 F.2d 885, 889 (9th Cir. 1982)). Moreover, "'substantial compliance' with the court
11 order is a defense to civil contempt, and is not vitiated by 'a few technical violations' where
12 every reasonable effort has been made to comply." *Id.* (quoting *Vertex Distrib., Inc.*, 689 F.2d at
13 891). Finally, the party alleging contempt must demonstrate "that the alleged contemnor violated
14 the court's order by 'clear and convincing evidence,' not merely a preponderance of the
15 evidence." *Id.* (quoting *Vertex Distrib., Inc.*, 689 F.2d at 889).

16 Ms. Lazaro alleges that she has spoken with S.L.C. on just 49 days during the 118-day
17 period following the Court's order. (Dkt. No. 102 at 1–2.) She seeks an order of contempt on this
18 basis. (*See generally* Dkt. Nos. 102, 106.) But Ms. Lazaro fails to establish by clear and
19 convincing evidence that Mr. Colchester has, in fact, violated the Court's order. The Court
20 ordered Mr. Colchester to "facilitate" daily communications between S.L.C. and Ms. Lazaro—
21 not to *ensure* that such communications occurred. (Dkt. 87 at 5.) To facilitate is commonly
22 understood as "to make the occurrence of (something) easier; to render less difficult." *Facilitate*,
23 BLACK'S LAW DICTIONARY (11th ed. 2019); *see also facilitate*, WEBSTER'S THIRD NEW
24 INTERNATIONAL DICTIONARY (rev. ed. 2002) (similar definition).

25 It is uncontroverted that Mr. Colchester established an electronic communications
26 account through Skype to facilitate daily communications between S.L.C. and Ms. Lazaro. (Dkt.

1 No. 105 at 2.) Both sides present evidence indicating that S.L.C. and Ms. Lazaro frequently
2 attempted to connect through the account but often failed. (See Dkt. Nos. 102 at 5–71, 117–19;
3 105 at 86–111.) This is not unexpected, given the complexities of communications spanning
4 many time zones between an adult and a six-year-old child, operating on very different
5 schedules. However, it does not negate the evidence Mr. Colchester puts forward supporting his
6 attempts to *facilitate* communications between the two, which includes evidence indicating that,
7 on many of the days where videoconference discussions between S.L.C. and Ms. Lazaro did not
8 occur, S.L.C. and Ms. Lazaro exchanged video recordings, electronic emojis, and other
9 communications through other electronic means. (See Dkt. No. 105 at 86–111.) While the
10 frequency and quality of communication between S.L.C. and Ms. Lazaro may not be satisfactory
11 to Ms. Lazaro, it does not establish, by clear and convincing evidence, that Mr. Colchester failed
12 to *facilitate* daily electronic communications between the two.

13 For the reasons described above, the Court DENIES Ms. Lazaro’s motion to find Mr.
14 Colchester in contempt (Dkt. No. 101).

15 DATED this 12th day of July 2021.

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19 John C. Coughenour
20 UNITED STATES DISTRICT JUDGE
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